

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Ethan Daniel Marks,

Civ. No. 20-1913 (ADM/ECW)

Plaintiff,

v.

**STIPULATION TO FILE
SECOND AMENDED
COMPLAINT UNDER
SEAL**

Benjamin Bauer, acting in his individual
capacity as a Minneapolis Police Officer,

Defendants.

Plaintiff Ethan Daniel Marks and Defendant Benjamin Bauer, by and through their respective undersigned counsel, hereby stipulate as follows:

1. After discovery was commenced in this action, Plaintiff provided a proposed Second Amended Complaint to counsel for the Defendant via e-mail on June 21, 2021. The First Amended Complaint was amended to name the previously unnamed John Doe 1.

2. Counsel for the parties met and conferred on June 29, 2021 regarding the proposed Second Amended Complaint.

3. Counsel for the Defendant objects to the still frames from body worn camera (“BWC”) footage being included within a publicly filed version of the Second Amended Complaint as the BWC footage is marked “confidential” pursuant to the Protective Order in this matter. The Protective Order in this matter states that a party may designate a document as confidential if it contains confidential information, which “includes but is not limited to . . . ‘not public data’ under the Minnesota Government Practices Act (“MGDPA”) (*see* definition of ‘not public data’ in Minn. Stat. § 13.02, subd. 8a), including . . . body worn camera video footage.”

4. In light of the foregoing, the Defendant agrees that Plaintiff may file the proposed Second Amended Complaint under seal.

5. The Plaintiff preserves his right to challenge the “confidentiality” of the BWC footage that Defendant contends are covered by the Protective Order and MGDPA.

6. Additionally, the Defendant agrees that Plaintiff may publicly file a version of the proposed Second Amended Complaint that redacts all of the still frames from the BWC footage.

7. Plaintiff will file an unredacted Second Amended Complaint under seal, and file the redacted Second Amended Complaint publicly. Plaintiff understands that counsel for the Defendant will accept service of the Second Amended Complaint after it has been filed.

8. Counsel for the Defendant objects to Paragraph 68 of the Second Amended Complaint. Counsel for Defendant objects to Paragraph 68 on the basis that Plaintiff cannot have a good faith basis for the allegation in so far as it relates to the timing of any “consultation” with counsel, improperly intimates that counsel advised a client to engage in improper conduct, and seeks an answer that invades the province of the attorney-client relationship. Plaintiff stands by the allegations in Paragraph 68 and it is his position that he is the master of his pleadings. Counsel for Defendant and Defendant reserve all rights to pursue any available remedies related to Paragraph 68, including Rule 11 of the Federal Rules of Civil Procedure.

Therefore, the parties respectfully request that the Court approve this stipulation and sign the attached order.

Dated: July 15, 2021

Respectfully submitted,

ROBINS KAPLAN LLP

s/Robert Bennett

Robert Bennett, #6713
Andrew J. Noel, #322118
Kathryn H. Bennett, #0392087
Marc E. Betinsky, #0388414
800 LaSalle Ave, Suite 2800
Minneapolis, MN 55402
Telephone: 612-349-8500
rbennett@robinskaplan.com
anoel@robinskaplan.com
kbennett@robinskaplan.com
mbetinsky@robinskaplan.com

Attorneys for Plaintiff Soren Stevenson

Dated: July 15, 2021

JAMES R. ROWADER, JR.
City Attorney

s/Kristin R. Sarff

Kristin R. Sarff, #0388003
Sharda Enslin, #0389370
Heather P. Robertson, #0390470
Assistant City Attorneys
Minneapolis City Attorney's Office
350 South Fifth Street, Room 210
Minneapolis, MN 55415
Telephone: 612-673-3919
kristin.sarff@minneapolismn.gov
sharda.enslin@minneapolismn.gov
heather.robertson@minneapolismn.gov

Attorneys for Defendant Benjamin Bauer